

AMENDED IN SENATE MAY 11, 2004

SENATE BILL

No. 1508

Introduced by Senator Ducheny
(Coauthor: Senator Ortiz)

February 19, 2004

An act to add Chapter 7.6 (commencing with Section 1922) to Title 4 of Part 4 of Division 3 of the Civil Code, relating to real property loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1508, as amended, Ducheny. Real property loans: restrictions: code violations.

Existing law regulates the transfer of real property and the recording of liens on real property.

This bill would prohibit a person or entity from making a loan secured by a deed of trust or mortgage on non-owner-occupied residential real property if a notice of *pendency of action relative to a* code violation has been recorded against the property by the local code enforcement agency, unless the loan does not exceed certain amounts, or unless a portion of the loan is withheld pending compliance with the code enforcement notice or *disbursed* to ~~directly~~ pay ~~contractors~~ for construction work ~~completed in response to the code enforcement notice~~.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7.6 (commencing with Section 1922) is added to Title 4 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 7.6. RESTRICTIONS ON REAL PROPERTY LOANS

1922. (a) Except as provided in subdivision (b), no person or entity shall make a loan secured by a deed of trust or mortgage on non-owner-occupied residential real property if a notice of ~~code violation~~ *pendency of action, as defined in Section 405.2 of the Code of Civil Procedure*, has been recorded against the property by the local code enforcement agency *pursuant to subdivision (a) of Section 17985 of the Health and Safety Code or Section 405.7 or 405.20 of the Code of Civil Procedure.*

~~(b) Subdivision (a) shall not apply, in the case of a purchase loan, if the amount of the loan does not exceed the purchase price or fair market value of the property, whichever is lower, or in the case of a refinance loan, if the amount of the loan does not exceed the amount of the outstanding liens on the property, or if the amount of the loan in excess of the purchase price or fair market value of the property, whichever is lower, in the case of a purchase loan, or the amount of the loan in excess of the amount of the outstanding liens on the property, in the case of a refinance loan, is withheld from the borrower or any assignee of the borrower pending compliance with the code enforcement notice, except to directly pay contractors for construction work completed in response to the code enforcement notice.~~

(b) Subdivision (a) shall not apply in either of the following cases:

(1) In the case of a purchase loan, if the amount of the loan does not exceed the purchase price or fair market value, whichever is lower, or in the case of a refinance loan, if the amount of the loan does not exceed the amount of the outstanding liens on the property.

(2) The amount of the loan exceeds the amounts specified in paragraph (1), and the lender withholds the excess and disburses those loan proceeds to the person or entity legally entitled thereto as follows:

1 (A) *Loan proceeds reasonably sufficient to cure the code*
2 *violations and complete other construction improvements being*
3 *made to the real property shall be disbursed as payment for*
4 *construction work.*

5 (B) *Any amount in excess of that reasonably sufficient to cure*
6 *the code violations and complete other construction improvements*
7 *being made to the real property shall be withheld pending*
8 *compliance with the code enforcement notice.*

